

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF ILLINOIS  
3 EAST ST. LOUIS DIVISION  
4 CASE NO. 3:15-cv-1253-NJR-DGW

5 RYAN RUDELL

PLAINTIFF

6 v.

7 MARATHON PETROLEUM CO., LP,  
8 MARINE TRANSPORTATION

DEFENDANT

9  
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11  
12 VIDEOCONFERENCE DEPOSITION OF  
13 DANE NICHOLAUS HAUKE DAHL  
14

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16  
17 Ashland, Kentucky  
18 July 13, 2016  
19

20  
21 Lisa Larson, FCRR, RPR  
22 Federal Certified Realtime Reporter  
23  
24

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Pursuant to Notice, the videoconference

2 deposition of DANE NICHOLAUS HAUKE DAHL was taken on

3 behalf of the Plaintiff before Lisa Larson, FCRR,

4 RPR, and Notary Public in and for the Commonwealth of

5 Kentucky at Large, at Holiday Inn Express & Suites,

6 Meeting Room, 13131 Slone Court, Ashland, Kentucky,

7 on July 13, 2016, commencing at the hour of

8 11:51 a.m.

9 The deposition was taken for all purposes

10 permitted under the Federal Rules of Civil Procedure,

11 including use as evidence at the trial of this

12 matter.

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A P P E A R A N C E S

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COUNSEL FOR THE PLAINTIFF:

3 (By videoconference)

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17 ALSO PRESENT:

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21 Adrian J. Pringle, Human Resources Consultant

22 Marathon Petroleum Company, LP

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6 Mr. Raymond Massey

7 Mr. O'Bryan

8 Mr. Raymond Massey

9 Mr. O'Bryan

10 Mr. Raymond Massey

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DANE NICHOLAUS HAUKE DAHL,

2 the witness herein, having first been duly placed

3 under oath, was examined and testified as follows:

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5 EXAMINATION

6 BY MR. O'BRYAN:

7 Q Please state your name.

8 A Dane Haukedahl.

9 Q And you're employed by Marathon?

10 A Yes.

11 Q And are you still second mate?

12 A No, sir.

13 Q First mate?

14 A I am a training mate.

15 Q Oh, okay. Anyway, you were on the vessel on

16 August 27th of 2014 when this incident occurred

17 with regard to Ryan Ruddell?

18 A Yes, sir.

19 Q And you were his -- the mate in charge at that

20 time, isn't that correct?

21 A Yes, sir.

22 Q Is it true that you couldn't find your rain gear

23 on that date?

24 A Can you speak up a little bit?

25 Q Yeah. Is it true that you could not find any rain

<p style="text-align: right;">Page 6</p> <p>1 gear to use on that date?</p> <p>2 MR. RAYMOND MASSEY: You are</p> <p>3 cutting out, Dennis. Parts of the words were</p> <p>4 cut out.</p> <p>5 Q On August -- on that August 27th date, could you</p> <p>6 not find any rain gear that you could use?</p> <p>7 A Yes, we -- we found rain gear. We found sizes</p> <p>8 smaller and larger. He just decided not to wear a</p> <p>9 couple sizes larger than what he was normally used</p> <p>10 to, so he decided to go without it.</p> <p>11 Q Oh. What did you?</p> <p>12 A I never wear rain gear. It binds me up. I get</p> <p>13 too hot. It was August, and it was a hot day.</p> <p>14 Q Okay. What were you guys doing when he was</p> <p>15 handing you a wire?</p> <p>16 A We were fleeting barges.</p> <p>17 Q And I'm looking at your witness statement, 730.</p> <p>18 And do you have that in front of you?</p> <p>19 MR. RAYMOND MASSEY: Well, let's</p> <p>20 stop for a minute. What is that number?</p> <p>21 MR. O'BRYAN: 730.</p> <p>22 MR. RAYMOND MASSEY: Okay. Hang on</p> <p>23 a minute and let me see if we can find that.</p> <p>24 Dennis, just so I make sure I have</p>	<p style="text-align: right;">Page 8</p> <p>1 A Every witness statement, the statement that I gave</p> <p>2 to Isaac Perkins and Michael Burdick about a year</p> <p>3 ago, the statement I handed Isaac Perkins either</p> <p>4 the day or the day after, and the boat crew report</p> <p>5 of injury/illness form.</p> <p>6 Q Now, which -- now, were any of them handwritten</p> <p>7 statements, handwritten out?</p> <p>8 A Yes.</p> <p>9 Q Besides the -- your employee witness statement</p> <p>10 that was just put in front of you?</p> <p>11 A Yes.</p> <p>12 Q Which one? Which other one was handwritten?</p> <p>13 The one you gave the next day?</p> <p>14 A That one was typed up. I read Michael Scott's,</p> <p>15 which was handwritten, and Blake Ginn's, which was</p> <p>16 handwritten.</p> <p>17 Q Did you have a handwritten one?</p> <p>18 A I had a handwritten eye witness statement.</p> <p>19 Q Other than the employee witness statement on the</p> <p>20 Marathon document?</p> <p>21 A Yes. I had an extra witness statement other than</p> <p>22 the Marathon employee witness statement.</p> <p>23 Q Okay.</p> <p>24 MR. O'BRYAN: Off the record.</p>
<p style="text-align: right;">Page 7</p> <p>1 got the right document, is it Dane's employee</p> <p>2 witness statement?</p> <p>3 MR. O'BRYAN: Yes.</p> <p>4 MR. RAYMOND MASSEY: The same as</p> <p>5 double 0 -- the same as 7?</p> <p>6 MR. O'BRYAN: I don't know, but I'm</p> <p>7 sure they are probably both the same.</p> <p>8 MR. RAYMOND MASSEY: Okay. But it</p> <p>9 is his statement, where Dane signed it; is</p> <p>10 that the one you are looking for?</p> <p>11 MR. O'BRYAN: Yeah.</p> <p>12 MR. RAYMOND MASSEY: Okay.</p> <p>13 I think --</p> <p>14 MR. O'BRYAN: All right.</p> <p>15 MR. RAYMOND MASSEY: Okay. Just to</p> <p>16 be clear, Dane, I'm handing you what has been</p> <p>17 marked as Bates stamped 07, employee witness</p> <p>18 statement.</p> <p>19 MR. O'BRYAN: Okay.</p> <p>20 BY MR. O'BRYAN:</p> <p>21 Q Before we talk about that, have you reviewed any</p> <p>22 documents to refresh your recollection, Dane?</p> <p>23 A Yes.</p> <p>24 Q What have you looked at?</p>	<p style="text-align: right;">Page 9</p> <p>1 (Discussion held off the record)</p> <p>2 A I have an employee witness statement that was</p> <p>3 handwritten, and then I have a secondary witness</p> <p>4 statement that I typed to Isaac Perkins that was</p> <p>5 typed/ --</p> <p>6 MR. RAYMOND MASSEY: Is that it</p> <p>7 (indicating)?</p> <p>8 A And then signed at the bottom.</p> <p>9 MR. RAYMOND MASSEY: That's that</p> <p>10 one (indicating), I think.</p> <p>11 (Witness reviews document)</p> <p>12 THE WITNESS: (Moved head up and</p> <p>13 down).</p> <p>14 MR. RAYMOND MASSEY: Yes.</p> <p>15 MR. O'BRYAN: Okay.</p> <p>16 MR. RAYMOND MASSEY: So to be</p> <p>17 clear, there's two statements, I guess if you</p> <p>18 want to call them that. There's the employee</p> <p>19 witness statement 07, and then there's 017</p> <p>20 and 18, which is two pages typed, the second</p> <p>21 page of which has Dane's signature on it.</p> <p>22 Those are the only statements that I am aware</p> <p>23 of, I think. But you go ahead, Dane.</p> <p>24 MR. O'BRYAN: Yeah.</p>

<p style="text-align: right;">Page 10</p> <p>1 BY MR. O'BRYAN:</p> <p>2 Q I'm asking, is there another handwritten statement</p> <p>3 between -- besides this Marathon Petroleum Company</p> <p>4 employee witness statement?</p> <p>5 A Yes.</p> <p>6 Q Okay. That's what I am --</p> <p>7 MR. RAYMOND MASSEY: But you just</p> <p>8 pointed to this one (indicating), right?</p> <p>9 MR. DANIEL MASSEY: He said another</p> <p>10 handwritten one.</p> <p>11 MR. RAYMOND MASSEY: Is there</p> <p>12 another handwritten one?</p> <p>13 MR. DANIEL MASSEY: No, I don't</p> <p>14 think so.</p> <p>15 MR. O'BRYAN: Hold it up to the</p> <p>16 camera so I can see it.</p> <p>17 THE WITNESS: (Witness so</p> <p>18 complies).</p> <p>19 MR. O'BRYAN: Now, your picture</p> <p>20 just went bye-bye. What is the number on it?</p> <p>21 MR. RAYMOND MASSEY: There's that</p> <p>22 (indicating). Is that what you are talking</p> <p>23 about, maybe? The number on this one is 017</p> <p>24 and 018.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q And how much into it was it before that Ryan</p> <p>2 handed you the wire at the steering coupling?</p> <p>3 A At the very end.</p> <p>4 Q So your best estimate of the time of the incident</p> <p>5 was 7 p.m.?</p> <p>6 A Yes.</p> <p>7 Q And what did you base that on?</p> <p>8 A I don't remember.</p> <p>9 Q Okay. So once it started raining very heavily,</p> <p>10 did it pretty much stay that way until you were</p> <p>11 done?</p> <p>12 A Yes.</p> <p>13 Q Okay. So, and, it started raining very heavily as</p> <p>14 you were starting to tie-off the tow to the fleet,</p> <p>15 isn't that correct?</p> <p>16 A No.</p> <p>17 Q What is incorrect about it?</p> <p>18 A It only started raining until we tied off the</p> <p>19 head, laid the second wire, and made our way back</p> <p>20 to -- halfway back it started sprinkling and it</p> <p>21 started picking up as we made it back to the final</p> <p>22 coupling to tie-off.</p> <p>23 Q So you don't agree with the statement that it</p> <p>24 began to rain very heavily as you were starting to</p>
<p style="text-align: right;">Page 11</p> <p>1 MR. O'BRYAN: Okay. Oh. I've got</p> <p>2 17 and 18. Okay. But that's not a</p> <p>3 handwritten statement. I'm talking about a</p> <p>4 handwritten.</p> <p>5 A Other than my employee witness statement, this is</p> <p>6 the only one I've handwritten.</p> <p>7 Q All right. Now, let's look -- okay. So let's</p> <p>8 look at 17 and 18 for a minute.</p> <p>9 A (Witness so complies).</p> <p>10 Q Do you disagree with any of the things that are</p> <p>11 written down there?</p> <p>12 MR. RAYMOND MASSEY: Do you want</p> <p>13 him to read it quickly or?</p> <p>14 MR. O'BRYAN: Well, he already has.</p> <p>15 MR. RAYMOND MASSEY: Well, do you</p> <p>16 want him to do it again or not?</p> <p>17 MR. O'BRYAN: No.</p> <p>18 Q I mean, do you recall if you disagree with</p> <p>19 anything in 17 or 18?</p> <p>20 (Witness reviews document)</p> <p>21 A No.</p> <p>22 Q All right. Now, how long did this activity to</p> <p>23 tie-off the tow take?</p> <p>24 A Half hour, maybe, 45 minutes.</p>	<p style="text-align: right;">Page 13</p> <p>1 tie-off the tow to the fleet?</p> <p>2 A I don't agree with that.</p> <p>3 Q But that's what it is reported that you said on</p> <p>4 17, second paragraph, four line down. Can you</p> <p>5 read what it says on that line starting with the</p> <p>6 word "if" at the bottom.</p> <p>7 A "It began to rain very heavily as we were starting</p> <p>8 to tie-off the tow to the fleet."</p> <p>9 Q Okay. Now, when you talk about rain was coming</p> <p>10 down very hard and you began to slide, explain</p> <p>11 that a little bit to me.</p> <p>12 A Can you repeat the question.</p> <p>13 Q Yeah. Where you say in the second paragraph</p> <p>14 there, about three-fifths of the way down,</p> <p>15 "Rain was coming down very hard at this point.</p> <p>16 I felt myself begin to slide." Tell me a little</p> <p>17 bit about that.</p> <p>18 A I was on the fleet barges. There is no grit on</p> <p>19 fleet barges. I was the only one over there. It</p> <p>20 was slick. I started to slide a little bit. I</p> <p>21 turned to grab to reposition myself.</p> <p>22 Q So was the wind blowing you?</p> <p>23 A No.</p> <p>24 Q Well, what was causing you to slide?</p>

<p style="text-align: right;">Page 14</p> <p>1 A The barge was angled because there was a dent in 2 the barge.</p> <p>3 Q What were the wind conditions at that time?</p> <p>4 A I don't remember any wind.</p> <p>5 Q How about the rain? Was it coming down sideways?</p> <p>6 A No.</p> <p>7 Q Did you have any private sessions to discuss this 8 situation with defense counsel prior to starting 9 this deposition?</p> <p>10 A Yes.</p> <p>11 Q When was that?</p> <p>12 A Yesterday.</p> <p>13 Q Who else was in the room?</p> <p>14 A Adrian Pringle and Tara Griffith.</p> <p>15 Q What are their job titles, if you know?</p> <p>16 A HR representative and --</p> <p>17 THE WITNESS: I don't know your 18 title.</p> <p>19 MR. RAYMOND MASSEY: In-house 20 lawyer.</p> <p>21 A -- in-house counsel.</p> <p>22 Q Now, when you say "rain was coming down very 23 hard," what do you mean?</p> <p>24 A It was --</p>	<p style="text-align: right;">Page 16</p> <p>1 Q And what did he say to you after you said this to 2 him?</p> <p>3 A I don't remember.</p> <p>4 Q You didn't record anywhere in any of these 5 documents or to the interview guy that you said 6 anything to him, did you?</p> <p>7 A I don't remember.</p> <p>8 Q So are you saying that Ryan, more or less, 9 disobeyed a directive by you?</p> <p>10 A No. It was more of -- he was already in the 11 position. I told him "Just remember not to bend 12 over like that." And that's all it was left at.</p> <p>13 Q So now that you have reviewed this -- or strike 14 that.</p> <p>15 What time did you start the shift; do you 16 recall?</p> <p>17 A We start watch at 5:30, go up for shift starter at 18 6 o'clock.</p> <p>19 Q Prior to this time, did you notice any movements 20 by Ryan Ruddell that seemed in any way impaired or 21 as though he had something wrong with his back?</p> <p>22 A Prior to fleeting?</p> <p>23 Q Correct.</p> <p>24 A No.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Explain it a little.</p> <p>2 A It was coming down pretty hard; you know, you 3 could feel the water droplets, nothing any worse 4 than we worked in before.</p> <p>5 Q And you make reference to a more ergonomic 6 position of Ryan Ruddell. What do you mean by 7 that?</p> <p>8 A He -- when I turned around from the fleet barge, 9 he was leaning over and bending at the back to 10 hand me the eye of the wire.</p> <p>11 Q How close to it was he -- how close to you was he?</p> <p>12 A A foot, foot and a half.</p> <p>13 Q So you were his supervisor, more or less, isn't 14 that correct?</p> <p>15 A Yes.</p> <p>16 Q Did you say anything to him, that you thought he 17 was bending down wrong?</p> <p>18 A At the time, yes.</p> <p>19 Q Oh. What did you say?</p> <p>20 A I told him "Man, you don't need to stand -- you 21 don't need to bend over like that." But after -- 22 after I had already turned I didn't see him pick 23 up the wire. All I saw him was leaning forward 24 with the wire.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q After -- now, you made some reference that Ryan 2 sat down in a leather chair after this -- after 3 you guys finished what you were doing and he sat 4 down with a lot of force. Did that seem unusual 5 to you?</p> <p>6 A No. He just flopped down in the chair.</p> <p>7 Q But you indicated it was with lots of force, that 8 his foot came up from the ground; isn't that 9 correct? I'm looking at number 17.</p> <p>10 A Yeah. Could you repeat the question?</p> <p>11 Q Yeah. You noticed that he sat down in the leather 12 chair with lots of force so that his foot came up 13 from the ground?</p> <p>14 A Yes.</p> <p>15 Q And that's when he asked about whether they have 16 any medicine in the OTC cabinet?</p> <p>17 A He asked me personally if I had any Advil or 18 Aleve.</p> <p>19 Q Did you ask him what for?</p> <p>20 A Yes.</p> <p>21 Q What did he tell you?</p> <p>22 A He just said he had a muscle spasm.</p> <p>23 Q Where at?</p> <p>24 A He didn't say.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q What about the Bengay?</p> <p>2 A He had used Bengay before on his knees. And I had</p> <p>3 asked him about that, because later we smelled it.</p> <p>4 And he said, "I use it for my knees all the time.</p> <p>5 It is not a big deal."</p> <p>6 Q And the next day Ryan told you that he didn't</p> <p>7 think he could do his job because of the problems</p> <p>8 he was having?</p> <p>9 A The next day, yes.</p> <p>10 Q Now, give me a step-by-step recollection, if you</p> <p>11 can, of the sequence surrounding Ryan handing you</p> <p>12 the wire from the steering coupling.</p> <p>13 A We were walking back. We made it to the steering</p> <p>14 coupling. The harbor crew were with us. I hopped</p> <p>15 across to the other side. When I mean hop, I</p> <p>16 stepped. There was no gap in-between any of the</p> <p>17 barges. The fleet barges are our tow. The harbor</p> <p>18 crew started break -- breaking down the winch and</p> <p>19 loosening the wire. And one of the harbor mates</p> <p>20 handed me the bite. And then that's when it</p> <p>21 started to slide a little bit.</p> <p>22 I turned around, grabbed the combing on the</p> <p>23 fleet barge, turned back around after I got my</p> <p>24 footing, and Ryan handed me the eye so I could cut</p>	<p style="text-align: right;">Page 20</p> <p>1 A No.</p> <p>2 Q The reason the Lewis and Clark fleet barge was</p> <p>3 slippery, you mentioned not having grit on them,</p> <p>4 what do you mean by that?</p> <p>5 A Whenever we paint a barge, we put down grit and</p> <p>6 then paint over top of it and put down more grit.</p> <p>7 It's large rock-like substances, not a lot to trip</p> <p>8 on, just enough to get you a good grip on top of</p> <p>9 the deck.</p> <p>10 Q And all the barges that Marathon have that you all</p> <p>11 have in the tow that you all were working on, they</p> <p>12 all have good grit?</p> <p>13 A Yes.</p> <p>14 Q But the slipping that you were talking about was</p> <p>15 after you had gotten off of your barges and onto</p> <p>16 the Lewis and Clark fleet barge?</p> <p>17 A Yes.</p> <p>18 Q That's why that one was slippery as opposed to our</p> <p>19 barges?</p> <p>20 A Yes, sir.</p> <p>21 Q As Mr. Ruddell handed you the eye, is that when</p> <p>22 you noticed that he was bent from the waist?</p> <p>23 A Yes.</p> <p>24 Q Was doing it in that manner and not bending his</p>
<p style="text-align: right;">Page 19</p> <p>1 the cable.</p> <p>2 MR. O'BRYAN: Okay. I have no</p> <p>3 further questions.</p> <p>4 MR. RAYMOND MASSEY: Dane, I have a</p> <p>5 few questions.</p> <p>6 EXAMINATION</p> <p>7 BY MR. RAYMOND MASSEY:</p> <p>8 Q And starting right where you left off with the</p> <p>9 last question. The wire that Ruddell handed to</p> <p>10 you, is that the only wire that he touched during</p> <p>11 the time you were out on the tow with him?</p> <p>12 A Yes.</p> <p>13 Q And during the time that you were out on the tow</p> <p>14 with Ryan, were your crew members, that's you,</p> <p>15 Blake, and Ryan, always within about ten feet of</p> <p>16 one another?</p> <p>17 A Yes.</p> <p>18 Q And you mentioned something about slipping on</p> <p>19 barges. The barges you are referring to are the</p> <p>20 barges of Lewis and Clark; is that true?</p> <p>21 A Yes.</p> <p>22 Q Ruddell never got off the Marathon barges, did he?</p> <p>23 A No.</p> <p>24 Q He never got on the Lewis and Clark barges?</p>	<p style="text-align: right;">Page 21</p> <p>1 knees as he handed you the wire, was that in</p> <p>2 violation of Marathon's policy as far as handling</p> <p>3 wires?</p> <p>4 A Yes.</p> <p>5 Q Why was that a violation of Marathon's policy?</p> <p>6 A You are supposed to bend at your knees and not</p> <p>7 your back.</p> <p>8 Q And why is that, sir?</p> <p>9 A It reduces the strain on the lower back.</p> <p>10 Q And had Mr. Ruddell been trained for the years</p> <p>11 that he had been to Marathon -- at Marathon on</p> <p>12 proper lifting techniques?</p> <p>13 A Has he been trained on proper?</p> <p>14 Q Yes, sir.</p> <p>15 A Yes.</p> <p>16 Q And the way he was doing it, was it in violation</p> <p>17 of those proper lifting techniques?</p> <p>18 A Yes.</p> <p>19 Q At the time of that movement, was that near the</p> <p>20 end of the entire operation?</p> <p>21 A Yes.</p> <p>22 Q After that movement and after you, as you called</p> <p>23 it, cut the timber head, I think you said, or</p> <p>24 cutting the cable?</p>

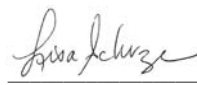
<p style="text-align: right;">Page 22</p> <p>1 A Cutting the cable.</p> <p>2 Q Cutting the cable and tying that off then to the</p> <p>3 other fitting, did you all then go inside?</p> <p>4 A Yes.</p> <p>5 Q During any of the time that you or any of your</p> <p>6 crew were out there, was there any lightening at</p> <p>7 all?</p> <p>8 A No, sir.</p> <p>9 Q Is there a policy that if there is lightening that</p> <p>10 you or any other crew member should come in off</p> <p>11 the tow?</p> <p>12 A There is no written policy, but it -- there is</p> <p>13 several things that say during weather events if</p> <p>14 there is lightening or any adverse weather effect</p> <p>15 we immediately stop what we are doing and come</p> <p>16 back inside.</p> <p>17 Q All right. Even if there is not a written policy,</p> <p>18 is that the unwritten or general policy of</p> <p>19 Marathon --</p> <p>20 A Yes.</p> <p>21 Q -- that you do not work in lightening?</p> <p>22 A Yes, sir.</p> <p>23 Q And on that day were you all working in</p> <p>24 lightening?</p>	<p style="text-align: right;">Page 24</p> <p>1 A Yes, sir.</p> <p>2 Q At any time during the operation did Mr. Ruddell</p> <p>3 ever indicate to the Captain, to you, or to anyone</p> <p>4 that the weather was causing any problems with him</p> <p>5 functioning out there whatsoever?</p> <p>6 A No, sir.</p> <p>7 Q Did Mr. Ruddell ever indicate, either while out</p> <p>8 there or later when you all filled out the</p> <p>9 accident reports, anything concerning anything</p> <p>10 wrong with the wire that he handed to you?</p> <p>11 A No, sir.</p> <p>12 Q The Lewis and Clark people, they were the ones who</p> <p>13 took the wire, along with Blake I believe, from</p> <p>14 the winch?</p> <p>15 A Yes, sir.</p> <p>16 Q Mr. Ruddell didn't have any function doing that?</p> <p>17 A No, sir.</p> <p>18 Q All he did was maybe pick up the wire and for sure</p> <p>19 hand it to you?</p> <p>20 A Yes, sir.</p> <p>21 Q The wire that was handed to you, you of course</p> <p>22 observed that and used that wire?</p> <p>23 A Yes, sir.</p> <p>24 Q Was it in good, serviceable condition in your</p>
<p style="text-align: right;">Page 23</p> <p>1 A No, sir.</p> <p>2 Q Is it usual for you all to be working in the</p> <p>3 summer months in particular in rainfall?</p> <p>4 A Yes, sir.</p> <p>5 Q Is that because the boats and the barges work</p> <p>6 24 hours a day, 7 days a week generally going up</p> <p>7 and down the river?</p> <p>8 A Yes, sir.</p> <p>9 Q Now, you say you did not use any rain gear that</p> <p>10 day. It was August in St. Louis and it was</p> <p>11 because it was hot?</p> <p>12 A Yes, sir.</p> <p>13 Q Is that typical?</p> <p>14 A Yes, sir.</p> <p>15 Q Were any of the crew members out there, including</p> <p>16 the crew members of the Lewis and Clark crew, were</p> <p>17 any crew members wearing rain gear?</p> <p>18 A Not that I remember.</p> <p>19 Q And there was rain gear available for Mr. Ruddell</p> <p>20 had he chosen to use it but he chose not to use</p> <p>21 it?</p> <p>22 A Yes, sir.</p> <p>23 Q You had all microphones on each of you to</p> <p>24 communicate with the wheelhouse?</p>	<p style="text-align: right;">Page 25</p> <p>1 judgment and opinion?</p> <p>2 A Yes, sir.</p> <p>3 Q Had you used that wire the day before, the day</p> <p>4 before that, and in the days that you had been on</p> <p>5 the vessel before that?</p> <p>6 A Yes, sir.</p> <p>7 Q And did you use it after that?</p> <p>8 A Yes, sir.</p> <p>9 Q So you're experienced with that wire and in your</p> <p>10 experience the wire was serviceable and in good</p> <p>11 condition?</p> <p>12 A Yes, sir.</p> <p>13 Q The wind was not high at the time you all were</p> <p>14 doing your operation?</p> <p>15 A No, sir.</p> <p>16 Q Would you judge it as being no wind or maybe just</p> <p>17 a few miles an hour of wind?</p> <p>18 A Yes, sir.</p> <p>19 Q The rain was coming straight down?</p> <p>20 A Yes, sir.</p> <p>21 Q It was not blowing at all?</p> <p>22 A No, sir.</p> <p>23 Q Your crew, including Mr. Ruddell, were any of you</p> <p>24 all being blown about in any kind of way that it</p>



<p style="text-align: right;">Page 26</p> <p>1 would interfere in your work whatsoever?</p> <p>2 A No, sir.</p> <p>3 Q Was there any reason that you know of why</p> <p>4 Mr. Ruddell did not bend his knees properly?</p> <p>5 A No, sir.</p> <p>6 Q You indicated that his knees had caused him</p> <p>7 difficulty before and he had used Bengay on them?</p> <p>8 A Yes, sir.</p> <p>9 Q He told you that himself?</p> <p>10 A Yes, sir.</p> <p>11 Q Did he ever complain about his knees being</p> <p>12 bothered to the point where he needed relief from</p> <p>13 his work at all?</p> <p>14 A No, sir.</p> <p>15 Q You said something about a dent being in the</p> <p>16 barge. Were you referring to the barge on to</p> <p>17 which you stepped that was a Lewis and Clark</p> <p>18 barge?</p> <p>19 A Yes, sir.</p> <p>20 Q You were not referring to any of the Marathon</p> <p>21 barges?</p> <p>22 A No, sir.</p> <p>23 Q Any of the times that you mentioned in the</p> <p>24 deposition, that's Eastern Time?</p>	<p style="text-align: right;">Page 28</p> <p>1 anything to do with his incident?</p> <p>2 A No, sir.</p> <p>3 Q And did he ever indicate that hurrying or rushing</p> <p>4 had anything to do with his incident?</p> <p>5 A No, sir.</p> <p>6 Q If, in fact, Mr. Ruddell on his own was rushing,</p> <p>7 would that be a violation of the company policy?</p> <p>8 A Yes, sir.</p> <p>9 Q Actually, looking back on it, did it appear to you</p> <p>10 as if Mr. Ruddell was rushing or hurrying?</p> <p>11 A No, sir.</p> <p>12 Q If he had been rushing or hurrying, would you have</p> <p>13 calmed him down or said, "Don't do that"?</p> <p>14 A I would have told him to slow down or calm down.</p> <p>15 Q Okay.</p> <p>16 A "Pay attention to the task at hand."</p> <p>17 Q Okay. But you never saw the need to do that</p> <p>18 because he wasn't hurrying or rushing?</p> <p>19 A No, sir.</p> <p>20 Q In connection with that fleet and that tow, do you</p> <p>21 recall if the vessels -- strike that.</p> <p>22 Did the tow of vessels sit there at Lewis and</p> <p>23 Clark's facility for a number of days after that</p> <p>24 before they were loaded?</p>
<p style="text-align: right;">Page 27</p> <p>1 A Yes, sir.</p> <p>2 Q At any time, Dane, were you, Ruddell, or any crew</p> <p>3 members ever rushed to do this job?</p> <p>4 A No, sir.</p> <p>5 Q Were you all ever hurried to do this job?</p> <p>6 A No, sir.</p> <p>7 Q Is it a policy at Marathon that one not rush or</p> <p>8 hurry?</p> <p>9 A Can you repeat the question?</p> <p>10 Q Yes. Is it generally a policy for safety reasons</p> <p>11 never to rush or hurry?</p> <p>12 A Yes, sir.</p> <p>13 Q And you weren't on this day?</p> <p>14 A No, sir.</p> <p>15 Q At any time, either during the operation, after</p> <p>16 the operation, or while you all were filling out</p> <p>17 any of the reports, did Mr. Ruddell ever indicate</p> <p>18 to you that he slipped or tripped or fell?</p> <p>19 A No, sir.</p> <p>20 Q Did he ever indicate to you that the condition of</p> <p>21 any of the wires had anything to do whatsoever</p> <p>22 with his incident?</p> <p>23 A No, sir.</p> <p>24 Q Did he ever indicate to you that wind ever had</p>	<p style="text-align: right;">Page 29</p> <p>1 A I don't remember.</p> <p>2 Q Okay. The Captain or the logs would indicate what</p> <p>3 the situation was there?</p> <p>4 A Yes, sir.</p> <p>5 MR. RAYMOND MASSEY: All right. I</p> <p>6 think that's all I have at this time, Dennis.</p> <p>7 MR. O'BRYAN: Okay.</p> <p>8 RE-EXAMINATION</p> <p>9 BY MR. O'BRYAN:</p> <p>10 Q Did Mr. Ruddell tell you that the point where he</p> <p>11 hurt his back was when he was handing you the wire</p> <p>12 or after he picked it up or something?</p> <p>13 A No, sir.</p> <p>14 Q What did you base your -- I mean, on your employee</p> <p>15 handwritten witness statement it says, "If you</p> <p>16 witnessed the incident, describe what you saw."</p> <p>17 And it says, "Ryan bent down to grab a wire and</p> <p>18 hand the wire to me on the fleet barge, bent with</p> <p>19 his back." Do you see that?</p> <p>20 A Yeah. He did not initially tell me that he hurt</p> <p>21 his back from wire. I actually had to ask him</p> <p>22 about why he did not sleep the night before</p> <p>23 because his back was hurting, and then we needed</p> <p>24 to go talk to the Captain about his injury.</p>



<p style="text-align: right;">Page 30</p> <p>1 That's when we were describing when he thought he</p> <p>2 had hurt his back.</p> <p>3 Q Oh. That's what he told you?</p> <p>4 A Yes.</p> <p>5 Q And tell me about the pilot house meeting when you</p> <p>6 went on watch with the Captain. Tell me what was</p> <p>7 said.</p> <p>8 A Which -- which meeting, sir?</p> <p>9 Q What time did you go on watch?</p> <p>10 MR. RAYMOND MASSEY: You mean the</p> <p>11 next day or what?</p> <p>12 MR. O'BRYAN: No, no.</p> <p>13 Q Before the incident.</p> <p>14 A Before the incident we talked about fleeting</p> <p>15 barges, talking in the barges, watching out for</p> <p>16 slip, trips, and falls, anything to that. We knew</p> <p>17 weather was coming, so remember that water reduces</p> <p>18 friction and things like that, so we needed to be</p> <p>19 more careful.</p> <p>20 Q Was there anything said about how bad the weather</p> <p>21 was, things of that nature?</p> <p>22 A No, sir.</p> <p>23 Q Or what kind of weather he was talking about?</p> <p>24 A No, sir.</p>	<p style="text-align: right;">Page 32</p> <p>1 A The next morning Ryan had forgot his cigarettes</p> <p>2 and ran up the stairs, almost running down another</p> <p>3 crew member.</p> <p>4 Q And that was the next -- the next morning, meaning</p> <p>5 August 28?</p> <p>6 A Yes, sir.</p> <p>7 Q Early in the morning, right?</p> <p>8 A Yes, sir.</p> <p>9 Q And that was before you all went up to report the</p> <p>10 incident to the Captain?</p> <p>11 A Yes, sir.</p> <p>12 Q And why was that noteworthy to you, the fact that</p> <p>13 he ran up and down the stairs?</p> <p>14 A Because if his back was hurt, he wouldn't be</p> <p>15 running up and down the stairs.</p> <p>16 Q So that seemed unusual to you?</p> <p>17 A Yes, sir.</p> <p>18 Q When you went up with the Captain -- with Ruddell</p> <p>19 to tell the Captain that Mr. Ruddell was claiming</p> <p>20 an incident, at any time did he complain about the</p> <p>21 condition of the wire, the weather that -- the</p> <p>22 weather that was involved, any hurrying? Did he</p> <p>23 complain about any of those things that he claimed</p> <p>24 contributed to cause his injury in any kind of</p>
<p style="text-align: right;">Page 31</p> <p>1 Q Did the Captain tell you that the weather was</p> <p>2 about to get bad?</p> <p>3 A He told me that we were getting rain.</p> <p>4 Q So would that have been the rain you were</p> <p>5 referencing when you said, "It began to rain</p> <p>6 fairly heavily as we were starting to tie-off the</p> <p>7 tow to the fleet"?</p> <p>8 MR. RAYMOND MASSEY: Object to the</p> <p>9 form of the question. It is vague and</p> <p>10 ambiguous. You are talking about two</p> <p>11 different times, Dennis. You are mixing the</p> <p>12 shift starter meeting with something later in</p> <p>13 time. But I'm objecting because it is vague</p> <p>14 and ambiguous because of that.</p> <p>15 MR. O'BRYAN: All right. I have no</p> <p>16 further questions.</p> <p>17 MR. RAYMOND MASSEY: I have just a</p> <p>18 couple that, actually, I meant to ask.</p> <p>19 RE-EXAMINATION</p> <p>20 BY MR. RAYMOND MASSEY:</p> <p>21 Q At some point in time, Dane, after you all came in</p> <p>22 and before you all began to fill out incident</p> <p>23 reports, did you observe Mr. Ruddell running up</p> <p>24 and down the stairs?</p>	<p style="text-align: right;">Page 33</p> <p>1 way?</p> <p>2 A No, sir.</p> <p>3 Q Did any of the Lewis and Clark people, to your</p> <p>4 knowledge, did they have any problems or concerns</p> <p>5 about working in the weather?</p> <p>6 A No, sir.</p> <p>7 MR. O'BRYAN: Object as to the</p> <p>8 competence of this witness to testify to</p> <p>9 that.</p> <p>10 MR. RAYMOND MASSEY: Okay. And</p> <p>11 that's fair.</p> <p>12 Q You and your crew were working hand-in-hand with</p> <p>13 the Lewis and Clark people; is that true?</p> <p>14 A Yes.</p> <p>15 Q Were you all very close to one another the entire</p> <p>16 time you were out there, the 30 minutes or so when</p> <p>17 you were out there?</p> <p>18 A I don't remember.</p> <p>19 Q Okay. Did they mention or talk to you or discuss</p> <p>20 with you, "Hey, the weather is bad out here, /we</p> <p>21 shouldn't be working" or was it just customary,</p> <p>22 normal activity?</p> <p>23 A It was just customary and normal activity.</p> <p>24 Q And is it normal to work that time of the year</p>

<p style="text-align: right;">Page 34</p> <p>1 with rain coming down the way it was?</p> <p>2 A Yes, sir.</p> <p>3 MR. RAYMOND MASSEY: I don't have</p> <p>4 any further questions. And the witness will</p> <p>5 read the deposition as well.</p> <p>6 MR. O'BRYAN: I've got a couple</p> <p>7 more.</p> <p>8 MR. RAYMOND MASSEY: Okay.</p> <p>9 RE-EXAMINATION</p> <p>10 BY MR. O'BRYAN:</p> <p>11 Q Now, the next morning you noticed at the shift</p> <p>12 starter that Ryan wasn't stretching or wasn't</p> <p>13 bending down, isn't that correct?</p> <p>14 A Yes, sir.</p> <p>15 Q And he told you he didn't get much sleep, is that</p> <p>16 correct?</p> <p>17 A I had to ask him about it.</p> <p>18 Q And he said his back was hurting?</p> <p>19 A He -- we came down from shift starter. I asked</p> <p>20 him if he was okay because he gave a big sigh when</p> <p>21 he sat down on the chair. He said, "I just didn't</p> <p>22 get much sleep last night." I said, "Why not?"</p> <p>23 He says, "I just woke up a couple times on and off</p> <p>24 last night." And I said, "Are you okay?" He</p>	<p style="text-align: right;">Page 36</p> <p>1 done.</p> <p>2 (Exhibits 1 and 2 marked)</p> <p>3 (Deposition concluded at 12:30 p.m.)</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 35</p> <p>1 said, "Yeah. My back was hurting, so I woke up a</p> <p>2 bunch last night."</p> <p>3 At that point I said, "Are you hurt?" And he</p> <p>4 goes, "No. I'm fine. It is not a big deal." I</p> <p>5 said, "Can you pick up a wire or can you do your</p> <p>6 job?" And he kind of thought to himself and said,</p> <p>7 "No, I can't." And I said, "Well, we're going to</p> <p>8 go talk to Captain Mike." And that's when I went</p> <p>9 upstairs.</p> <p>10 Q And he really didn't even want to tell the</p> <p>11 Captain, though, isn't that correct?</p> <p>12 A If I hadn't asked, he probably wouldn't have went</p> <p>13 to him.</p> <p>14 Q And just kept on the job?</p> <p>15 A Yes, sir.</p> <p>16 MR. O'BRYAN: Okay. I have no</p> <p>17 further questions.</p> <p>18 RE-EXAMINATION</p> <p>19 BY MR. RAYMOND MASSEY:</p> <p>20 Q Did he appear to be hurt to you at all?</p> <p>21 MR. O'BRYAN: Well, I'm going to</p> <p>22 object to the competence of this witness.</p> <p>23 MR. RAYMOND MASSEY: Okay.</p> <p>24 Actually, I'll withdraw the question. I'm</p>	<p style="text-align: right;">Page 37</p> <p style="text-align: center;">REPORTER'S CERTIFICATE</p> <p>1 STATE OF KENTUCKY )</p> <p>2 COUNTY OF FAYETTE )</p> <p>3</p> <p>4</p> <p>5 I, LISA M. SCHWARZE, FCRR, RPR, and Notary</p> <p>6 Public in and for the Commonwealth of Kentucky at</p> <p>7 Large, do hereby certify that the facts as stated by</p> <p>8 me in the caption hereto are true; that the foregoing</p> <p>9 answers in response to the questions as indicated</p> <p>10 were made before me by the witness hereinbefore</p> <p>11 named, after said witness had first been duly placed</p> <p>12 under oath, and were thereafter reduced to</p> <p>13 computer-aided transcription by me and under my</p> <p>14 supervision; and that the same is a true and accurate</p> <p>15 transcript of the proceedings to the best of my</p> <p>16 ability.</p> <p>17</p> <p>18 I further certify that I am not employed by,</p> <p>19 related to, nor of counsel for any of the parties</p> <p>20 herein, nor otherwise interested in the outcome of</p> <p>21 this action.</p> <p>22</p> <p>23 IN WITNESS WHEREOF, I have affixed my</p> <p>24 signature and seal this 26th day of July, 2016.</p> <p style="text-align: center;">           LISA M. SCHWARZE, FCRR, RPR          Notary Public, State-at-Large          Notary ID 489705       </p> <p>My Commission Expires: June 13, 2017</p>

1	ERRATA SHEET	Page 38
2	I, DANE N. HAUKE DAHL, hereby certify that I	
3	have read the foregoing transcript, and that the	
4	same is a true and accurate transcription of my	
5	testimony, except as noted below:	
6	PAGE LINE NO. CHANGE REASON FOR CHANGE	
7		
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17		
18		
19	STATE OF _____ )	
20	COUNTY OF _____ )	
21	Subscribed and sworn to me on this ____ day of	
22	_____, 2016.	
23		
24	My Commission Expires:	

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